

ORDINANCE NO. 2009-10

AN ORDINANCE, relating to automated traffic safety cameras; authorizing use of these cameras to detect stoplight infractions at intersections where two arterials intersect and school speed zone violations; adopting the standards and restrictions regarding use of traffic safety cameras enacted by the Washington State Legislature during the 2005 regular session and codified under RCW 46.63.170; setting the monetary penalty for such infractions detected by an automated traffic safety camera; and creating a new Chapter 8.06 of the Wenatchee City Code.

WHEREAS, in 2005, the State Legislature passed a law authorizing local jurisdictions to use automated traffic safety cameras subject to restrictions specified in that legislation; and

WHEREAS, the City Council of the City of Wenatchee, Washington recognizes the value of implementing an automated traffic enforcement program in furtherance of its goals in creating a safe environment for its citizenry; and

WHEREAS, the City Council of the City of Wenatchee, Washington has adopted ordinances regulating traffic infractions within the City, codified within Title 8 of the Wenatchee City Code; and

WHEREAS, the State Legislature has passed a law authorizing local jurisdictions to use automated traffic safety cameras subject to restrictions specified in that legislation;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
WENATCHEE DO ORDAIN** as follows:

SECTION I

The use of automated traffic safety cameras to detect a violation of Chapter 8.02 of the Wenatchee City Code is authorized at intersections where two-arterial roadways intersect and at school speed zones, subject to the restrictions specified in state law (RCW 46.63.170).

SECTION II

The use of automated traffic safety cameras to detect a violation of Chapter 8.02 of the Wenatchee City Code is authorized in school speed zones, subject to the restrictions specified in state law (RCW 46.63.170).

SECTION III

That a new Chapter 8.06 is added to the Wenatchee City Code and shall read as follows:

Chapter 8.06 Automated Traffic Enforcement

Sections:

- 8.06.010 Authorized use of automated traffic safety cameras
- 8.06.020 Notice of infraction
- 8.06.030 Response to notice of infraction
- 8.06.040 Infractions processed
- 8.06.050 Fines
- 8.06.060 Non-exclusive enforcement

8.06.010 Authorized use of automated traffic safety cameras.

A. Law enforcement officers of the City of Wenatchee and persons commissioned by the Wenatchee Police Department are authorized to use automated traffic cameras and related automated systems to detect the following: (1) stoplight violations; and (2) school speed zone violations.

B. The use of automated traffic safety cameras is subject to the following restrictions:

1. The use of automated traffic safety cameras is restricted to two-arterial intersections and school speed zones only.

2. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while a violation is occurring. The picture must not reveal the face of the driver or of the passengers in the vehicle.

3. The City shall clearly mark all locations where automated traffic safety cameras are in use by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

4. Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this Chapter are for the exclusive use of law enforcement in the discharge of duties under this Chapter and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this Chapter. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this Chapter nor retained longer than necessary to enforce this Chapter.

5. For the purposes of this Chapter, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device.

8.06.020 Notice of infraction.

A. Whenever any vehicle is photographed by an automatic traffic safety camera, a notice of the infraction shall be mailed to the registered owner of the vehicle within fourteen (14) days of the violation, or to the renter of a vehicle within fourteen (14) days of establishing the renter's name and address under this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this Chapter. The photographs, microphotographs, or electronic images evidencing the violation shall be available for inspection or admission into evidence in a proceeding to adjudicate the liability for the infraction.

B. The registered owner of a vehicle is responsible for such an infraction unless the registered owner overcomes the presumption in this Section. If appropriate under the circumstances, a renter identified under subsection E of this Section is responsible for such an infraction.

C. In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera system, proof that the particular vehicle described in the notice of traffic infraction was in violation of this Section, together with proof that that person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

D. This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

E. If the registered owner of the vehicle is a rental car business, the peace officer shall, before such a notice of infraction is issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen (18) days of receiving the written notice, provide to the peace officer by return mail:

1. A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or
2. A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred; or
3. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the peace officer relieves a rental car business of any liability under this Chapter for the notice of infraction.

8.06.030 Response to notice of infraction.

A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to such notice by mail. Such person must still respond in accordance with state law including, but not limited to, RCW 46.63.170.

8.06.040 Infractions processed.

Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this Chapter shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

8.06.50 Fines.

The fine for infractions committed pursuant to the provisions of this Chapter shall be a base monetary penalty of \$124, plus any statutory penalties and assessments as required by law.

8.06.60 Non-exclusive enforcement.

Nothing in this Section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1)(a), (b), or (c).

SECTION IV

If any section, subsection, sentence, clause, phrase or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any

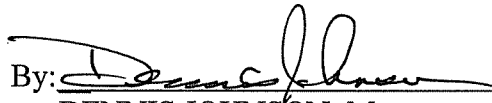
other section, subsection, sentence, clause, phrase or word of this Ordinance.

SECTION V

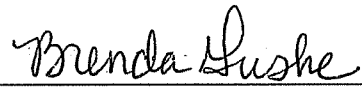
This Ordinance shall be in full force and effect thirty (30) days after passage and publication as required by law.

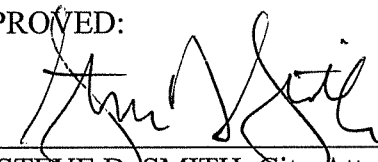
PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE,
at a regular meeting thereof, this 12th day of March, 2009.

CITY OF WENATCHEE

By: 
DENNIS JOHNSON, Mayor

ATTEST:

By: 
BRENDA GUSKE, Interim City Clerk

APPROVED:
By: 
STEVE D. SMITH, City Attorney